

BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARK A. FRANTZ
4044 S. Demaree Road, Suite B
Visalia, CA 93277

Certified Public Accountant License No.
CPA 72757

Respondent.

Case No. AC-2012-43


OAH No. 2012080234

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 3, 2013.

It is so ORDERED February 1, 2013.


FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

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10 **STATE OF CALIFORNIA**

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13 Visalia, CA 93277

14 **Certified Public Accountant License No.**
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15
16 Respondent.

Case No. AC-2012-43

OAH No. 2012080234

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
21 Accountancy (CBA). She brought this action solely in her official capacity and is represented in
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Brian S. Turner,
23 Deputy Attorney General.

24 2. Respondent Mark A. Frantz (Respondent) is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about January 16, 1997, the California Board of Accountancy issued Certified
27 Public Accountant License No. CPA 72757 to Mark A. Frantz (Respondent). The Certified
28

1 Public Accountant License was in full force and effect at all times relevant to the charges brought
2 in Accusation No. AC-2012-43 and will expire on October 31, 2013, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. AC-2012-43 was filed before the CBA, Department of Consumer
5 Affairs, and is currently pending against Respondent. The Accusation and all other statutorily
6 required documents were properly served on Respondent on July 30, 2012. Respondent timely
7 filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. AC-2012-43 is attached as exhibit A and incorporated
9 herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. AC-2012-43. Respondent has also carefully read, and understands the effects of
13 this Stipulated Settlement and Disciplinary Order.

14 7. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
18 the attendance of witnesses and the production of documents; the right to reconsideration and
19 court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 **CULPABILITY**

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. AC-2012-43.

26 10. Respondent agrees that his Certified Public Accountant License is subject to
27 discipline and he agrees to be bound by the CBA's probationary terms as set forth in the
28 Disciplinary Order below.

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11 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
12 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
13 effect as the originals.

20 14. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the CBA may, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order:

24 **IT IS ORDERED** that Certified Public Accountant License No. CPA 72757 issued to
25 Respondent Mark A. Frantz (Respondent) is revoked. However, the revocation is stayed and
26 Respondent is placed on probation for three (3) years on the following terms and conditions.

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1 Respondent shall engage in no activities for which certification as a Certified Public Accountant
2 or Public Accountant is required as described in Business and Professions Code, Division 3,
3 Chapter 1, Section 5051.

4 2. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local
5 laws, including those rules relating to the practice of public accountancy in California.

6 3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of
7 completion of the quarter, written reports to the CBA on a form obtained from the CBA. The
8 Respondent shall submit, under penalty of perjury, such other written reports, declarations, and
9 verification of actions as are required. These declarations shall contain statements relative to
10 Respondent's compliance with all the terms and conditions of probation. Respondent shall
11 immediately execute all release of information forms as may be required by the CBA or its
12 representatives.

13 4. **Personal Appearances.** Respondent shall, during the period of probation, appear in
14 person at interviews/meetings as directed by the CBA or its designated representatives, provided
15 such notification is accomplished in a timely manner.

16 5. **Comply With Probation.** Respondent shall fully comply with the terms and
17 conditions of the probation imposed by the CBA and shall cooperate fully with representatives of
18 the Board of Accountancy in its monitoring and investigation of the Respondent's compliance
19 with probation terms and conditions.

20 6. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice
21 investigation of the Respondent's professional practice. Such a practice investigation shall be
22 conducted by representatives of the CBA, provided notification of such review is accomplished in
23 a timely manner.

24 7. **Comply With Citations.** Respondent shall comply with all final orders resulting
25 from citations issued by the Board of Accountancy.

26 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
27 Respondent should leave California to reside or practice outside this state, Respondent must
28 notify the CBA in writing of the dates of departure and return. Periods of non-California

1 residency or practice outside the state shall not apply to reduction of the probationary period, or
2 of any suspension. No obligation imposed herein, including requirements to file written reports,
3 reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise
4 affected by such periods of out-of-state residency or practice except at the written direction of the
5 CBA.

6 9. **Violation of Probation.** If Respondent violates probation in any respect, the CBA,
7 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
8 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is
9 filed against Respondent during probation, the CBA shall have continuing jurisdiction until the
10 matter is final, and the period of probation shall be extended until the matter is final.

11 10. **Completion of Probation.** Upon successful completion of probation, Respondent's
12 license will be fully restored.

13 11. **Continuing Education Courses.** Respondent shall complete twenty-four (24) hours
14 of professional education courses as specified by the CBA. The professional education courses
15 shall be completed within a period of time designated and specified in writing by the CBA or its
16 designee, which time-frame shall be incorporated as a condition of this probation. This shall be
17 in addition to eighty (80) hours of continuing education requirements for relicensing.

18 Failure to satisfactorily complete the required courses as scheduled or failure to complete
19 same no later than 100 days prior to the termination of probation shall constitute a violation of
20 probation.

21 12. **Active License Status.** Respondent shall at all times maintain an active license status
22 with the CBA, including during any period of suspension. If the license is expired at the time the
23 CBA's decision becomes effective, the license must be renewed within 30 days of the effective
24 date of the decision.

25 13. **Cost Reimbursement.** Respondent shall reimburse the CBA \$4,000.00 for its
26 investigation and prosecution costs. The payment shall be made within ninety (90) days
27 of the date the CBA's decision is final, or, payment may be made on a payment plan approved by
28 the CBA and respondent, with final payment being due one year before probation is scheduled to

1 end.

2 14. **Ethics Continuing Education.** Respondent shall complete four hours of
3 continuing education in course subject matter pertaining to the following: a review of nationally
4 recognized codes of conduct emphasizing how the codes relate to professional responsibilities;
5 case-based instruction focusing on real-life situational learning; ethical dilemmas facing the
6 accounting profession; or business ethics, ethical sensitivity, and consumer expectations (within a
7 given period of time or prior to resumption of practice). Courses must be a minimum of one hour
8 as described in California Code of Regulations Section 88.2, (Courses will be passed prior to
9 resumption of practice where license has been suspended or where otherwise appropriate.)

10 If respondent fails to complete said courses within the time period provided, respondent
11 shall so notify the CBA and shall cease practice until respondent completes said courses, has
12 submitted proof of same to the CBA, and has been notified by the CBA that he or she may
13 resume practice. Failure to complete the required courses no later than 100 days prior to the
14 termination of probation shall constitute a violation of probation.

15 **ACCEPTANCE**

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
17 stipulation and the effect it will have on my Certified Public Accountant License. I enter into
18 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
19 agree to be bound by the Decision and Order of the California Board of Accountancy.

20
21 DATED: 9/13/12 Mark A. Frantz
22 MARK A. FRANTZ
23 Respondent

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ENDORSEMENT

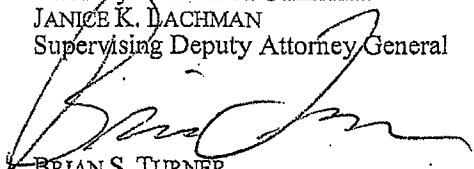
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated:

9/13/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


BRIAN S. TURNER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. AC-2012-43

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 BRIAN S. TURNER
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7 E-mail: Brian.Turner@doj.ca.gov
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14 **Certified Public Accountant License No.**
CPA 72757
15

A C C U S A T I O N

16 Respondent.

17
18 Complainant alleges:

19 **I.**

20 **PARTIES**

21 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the California Board of Accountancy, Department of Consumer
23 Affairs.

24 2. On or about January 16, 1997, the California Board of Accountancy issued
25 Certified Public Accountant License Number CPA 72757 to Mark A. Frantz (Respondent). The
26 Certified Public Accountant License was in full force and effect at all times relevant to the
27 charges brought herein and will expire on October 31, 2013, unless renewed.

28 ///

1 II.

2 JURISDICTION

3 3. This Accusation is brought before the California Board of Accountancy (CBA),
4 Department of Consumer Affairs, under the authority of the following laws. All section
5 references are to the Business and Professions Code unless otherwise indicated. Section 5033.1
6 provides that "license" shall also include "certificate".

7 III.

8 STATUTORY AND REGULATORY PROVISIONS

9 4. Section 5109 of the Code provides in relevant part that the expiration, cancellation,
10 forfeiture, suspension or voluntary surrender of a license shall not deprive the Board of
11 jurisdiction to proceed with an investigation or disciplinary action or to issue a decision
12 suspending or revoking the license.

13 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
14 revoke a license on the ground that the licensee has been convicted of a crime substantially
15 related to the qualifications, functions, or duties of the business or profession for which the
16 license was issued.

17 6. Section 493 provides in relevant part, the record of conviction of the crime shall be
18 conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board
19 may inquire into the circumstances surrounding the commission of the crime in order to fix the
20 degree of discipline.

21 7. Section 5100 provides in relevant part that after notice and hearing the board may
22 revoke or suspend any license or certificate for unprofessional conduct that includes, but is not
23 limited to, one or any combination of the following causes:

24 (a) Conviction of any crime substantially related to the qualifications, functions and duties of
25 a certified public accountant or a public accountant.

26 (j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially
27 misleading financial statements, reports, or information.

28 8. Title 16 California Code of Regulations section 99 provides in relevant part:

1 "For the purposes of denial, suspension, or revocation of a certificate or permit pursuant to
2 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act
3 shall be considered to be substantially related to the qualifications, functions or duties of a
4 certified public accountant or public accountant if to a substantial degree it evidences present or
5 potential unfitness of a certified public accountant or public accountant to perform the functions
6 authorized by his or her certificate or permit in a manner consistent with the public health, safety,
7 or welfare. Such crimes or acts shall include but not be limited to those involving the following:

8 (a) Dishonesty, fraud, or breach of fiduciary responsibility of any kind;

9 (c) Gross negligence in the practice of public accountancy or in the performance of the
10 bookkeeping operations described in Section 5052 of the code;

11 (d) Violation of any of the provisions of Chapter 1, Division III of the Business and
12 Professions Code or willful violation of any rule or regulation of the board."

13 **IV.**

14 **COST RECOVERY**

15 9. Section 5107(a) of the Code provides, in pertinent part, that the Board may request
16 the administrative law judge to direct any holder of a permit or certificate found to have
17 committed unprofessional conduct, a felony conviction, or fiscal dishonesty to pay the Board for
18 reasonable costs of the investigation and prosecution of the case including reasonable attorneys
19 fees.

20 **V.**

21 **STATEMENT OF FACTS APPLICABLE TO ALL CAUSES FOR DISCIPLINE**

22 10. At all relevant times, Respondent was a Certified Public Accountant with an office
23 in Visalia, California. In or about April 15, 2005, Respondent aided, assisted, advised and
24 prepared tax returns for clients in return for payment by the clients for Respondent's services.

25 11. On and before April 15, 2005, Respondent aided, assisted, procured, and
26 counseled the preparation of personal income tax returns that allowed deductions and expenses on
27 several of the income tax returns prepared for his clients to be inflated and fabricated, specifically
28 on Schedule A deductions, Schedule C expenses and Schedule E expenses.

12. In or about April 2004 Respondent willfully aided, assisted, procured, counseled, and advised in the preparation and presentation to the Internal Revenue Service, ten (10) U.S. Individual Income Tax Returns, Form 1040, either individual or joint, for the calendar year 2003. Several of the tax returns were false and fraudulent as to material matters, in that they represented the taxpayers were entitled under the provisions of the Internal Revenue laws to claim deductions and expenses for items and in amounts Respondent knew the taxpayers were not entitled to claim. As a result of Respondent's conduct, additional income tax was owed by those taxpayers in the amount of \$37,297.00. Respondent's conduct included instructing taxpayers to obtain blank receipts from charitable organizations to alter and falsely verify exaggerated non-cash contributions.

13. On or about September 6, 2011, Respondent was convicted by his plea of guilty to a charge of violating Title 26 United States Code section 7206(2), Aiding and Assisting in the Preparation of False Income Tax Returns, a felony, in a case captioned *United States of America v Mark A. Frantz*, Case No. 1:10-cr-00228 in the United States District Court for the Eastern District of California. Respondent was sentenced to serve 36 months probation and pay a \$3,000 fine and \$100 assessment. As part of probation Respondent was ordered to serve 365 days home confinement.

VI.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

14. Respondent's license is subject to disciplinary action under sections 490 and 5100(a) because Respondent was convicted of a crime substantially related to the duties, functions and qualifications of a Certified Public Accountant. The circumstances are as follows:

15. Paragraph 13 is incorporated herein as though set forth at length. Respondent was convicted by his plea of guilty to a charge of aiding or assisting in the preparation of a false tax return.

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SECOND CAUSE FOR DISCIPLINE

(Preparation of False Return)

16. Respondent's license is subject to disciplinary action under section 5100(j) because Respondent knowingly and willfully aided and assisted in the preparation of false tax returns. The circumstances are as follows:

17. Paragraphs 10 through 13 are incorporated herein as though set forth at length. On and before April 15, 2005 Respondent knowingly and willfully aided, assisted, prepared and submitted a false tax return on behalf of Respondent's clients.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant License Number CPA 72757, issued to Mark A. Frantz;
2. Ordering Mark A. Frantz to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

July 24, 2012



PATTY BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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